1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 PABLO P. PIÑA, Case No.: 1:20-cv-01735 JLT BAM (PC) 11 ORDER DENYING PLAINTIFF'S MOTION TO 12 Plaintiff, WITHDRAW CONSENT TO MAGISTRATE JUDGE JURISDICTION 13 v. (Doc. 38) YSUSI, et al., 14 ORDER REASSIGNING THE ACTION TO THE U.S. MAGISTRATE JUDGE FOR ALL PURPOSES Defendants. 15 16 Pablo P. Piña is a state prisoner proceeding pro se in this civil rights action pursuant to 42 17 18 U.S.C. § 1983. On March 12, 2021, Plaintiff indicated his consent to proceed before a U.S. Magistrate 19 Judge for all purposes, including trial and entry of final judgment. (Doc. 12.) Thereafter, Defendants 20 also indicated their consent to proceed before a U.S. Magistrate Judge. (Docs. 35.) Accordingly, the 21 matter was reassigned to U.S. Magistrate Judge Barbara A. McAuliffe for all further purposes and 22 proceedings pursuant to 28 U.S.C. 28 U.S.C. § 636(c)(1) on February 1, 2022. (Doc. 36.) 23 On February 18, 2022, Plaintiff filed another form indicating he declined to consent to the 24 jurisdiction of a U.S. Magistrate Judge. (Doc. 37.) The assigned magistrate judge construed the form 25 as a motion to withdraw consent to magistrate judge jurisdiction and the matter was assigned 26 undersigned for the limited purpose of the disposition of Plaintiff's motion. (Doc. 38.) 27 A party to a federal civil case generally has a constitutional right to proceed before an Article 28 III judge, but this right may be waived. Dixon v. Ylst, 990 F.2d 478, 479 (9th Cir. 1993). Upon the

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consent of all parties to the jurisdiction of magistrate judge for all further proceedings pursuant to 28 U.S.C. § 636(c)(1), an action may be referred to a magistrate judge. *See id.*; *Branch v. Umphenour*, 936 F.3d 994, 1000 (9th Cir. 2019).

Importantly, "[t]here is no absolute right, in a civil case, to withdraw consent to trial and other proceedings before a magistrate judge." *Dixon*, 990 F.2d at 480; *see also Carter v. Sea Land Services*, *Inc.*, 816 F.2d 1018, 1020-21 (5th Cir. 1987) (upholding the denial of motion to withdraw consent). As explained by the Fifth Circuit, once a right—even a fundamental right—is knowingly and voluntarily waived, a party has "no constitutional right to recant at will." *Id.* at 1021. Thus, after all parties have consented and the action is referred to a magistrate judge, "the reference can be withdrawn only 'for good cause shown on [the court's] own motion, or under extraordinary circumstances shown by any party." *Dixon*, 990 F.2d at 480 (quoting 28 U.S.C. § 636(c)(4)). The showing of "extraordinary circumstances... is a high bar that is difficult to satisfy." *Branch*, 936 F.3d at 1004 (citation omitted).

Plaintiff fails to meet the "high bar" required to support the withdrawal of his consent to magistrate judge jurisdiction. Plaintiff merely completed a new form, without any explanation for his attempt to withdraw his consent. The Court is unable to speculate that "exceptional circumstances" exist for withdrawal of his consent. Accordingly, the Court **ORDERS**:

- 1. The request to withdraw consent to the jurisdiction of the magistrate judge is **DENIED**;
- 2. The Clerk is directed to reassign the matter to United States Magistrate Judge Barbara A. McAuliffe for all purposes within the meaning of 28 U.S.C. § 636(c), including trial and entry of judgment; and
- 3. Further papers shall bear the case number **1:20-cv-01735-BAM (PC)**.

IT IS SO ORDERED.

Dated: **February 25, 2022**

OPPORTUGED STATES DISTRICT JUDGE